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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,835	05/09/2000	CHRISTINE RONDEAU	05725.0577	6223

7590

02/26/2002

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER  
1300 I STREET NW  
WASHINGTON, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT

PAPER NUMBER

1751

8

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-8

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/529,835	RONDEAU, CHRISTINE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eisa B Elhilo	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-8 and 32-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 32-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1 This action is responsive to the remarks filed on January 09, 2002.

2 Claims 2-8, 32-50, 54-57 and 61-77 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rondera et al. (US' 6,001, 135) in view of Saphakkul et al. (EP' 0.312,343), for the reasons set forth in the previous office action on paper number 6, dated 9/13/2001.

3 Claims 51-53 and 58-60 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rondera et al. (US' 6,001, 135) in view of Saphakkul et al. (EP' 0.312,343) and further, in view of Aaslyng et al. (WO' 97/19998), for the reasons set forth in the previous office action on paper number 6, dated 9/13/2001.

### ***Response to Applicant's Arguments***

4 Applicant's arguments filed 01/09/2001 have been fully considered but they are not persuasive.

With respect to the rejection based upon Rondera in view of Saphakkul, Applicant argues that Saphakkul teaches away from using quaternary ammonium salts with oxidative dyes for non-conditioning purposes in aqueous media and therefore, it provides no motivation to one of ordinary skill in the art to combine the quaternary ammonium salts of Saphakkul with the oxidation dyes of Rondeau et al.

The examiner respectfully disagrees with the above arguments because Saphakkul teaches a product for conditioning and dyeing hair (see page 2, lines 5-6). The aqueous hair conditioner comprises direct dyes such as basic and neutral dyes and cationic surfactants including quaternary ammonium chloride (see page 2, lines 44-63). Further, saphakkul teaches dyeing product that achieved rapid, uniform dyeing in a few minutes (see page 2, lines 27-30).

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Furthermore, Rondeau teaches hair dyeing composition comprising direct dyes (see col. 2, lines 11-12). Therefore, therefore, there would have been a motivation to combine the quaternary ammonium salts of Saphakkul with the oxidative dyes of Rondeau et al to establish a prima facie case of obviousness.

With respect to the rejection based upon Rondera in view of Saphakkul and further in view of Aaslyng, Applicant argues that Saphakkul teaches away from using quaternary ammonium salts with oxidative dyes for non-conditioning purposes in aqueous media. Further, the applicant argues that Aaslyng teaches laccases enzymes as preference oxidizing agent over peroxide while both applicant's invention and Rondeau references teaches hydrogen peroxide as the oxidizing agent is particularly preferred. Thus there would be no motivation for one to substitute the particular laccase enzyme of Aaslyng for the preferred hydrogen peroxide taught by Rondera.

The examiner respectfully disagrees with the above arguments because Saphakkul teaches a product for conditioning and dyeing hair (see page 2, lines 5-6). The aqueous hair conditioner comprises direct dyes such as basic and neutral dyes and cationic surfactants including quaternary ammonium chloride (see page 2, lines 44-63). Further, saphakkul teaches dyeing product that achieved rapid, uniform dyeing in a few minutes (see page 2, lines 27-30). Furthermore, Rondeau teaches hair dyeing composition comprising direct dyes (see col. 2, lines 11-12). Further, Rondeau teaches hair dyeing composition comprising oxidizing agents used conventionally in oxidation dyeing (see col. 21, lines 15-16) and Aaslyng teaches hair dyeing composition comprising oxidizing agents such as laccases enzymes. Therefore, there would have been a motivation to combine these references to establish a prima facie case of obviousness.

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**5 THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

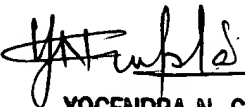
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Eisa  
February 24, 2002

  
YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700